

REMARKS/ARGUMENTS

Applicants thank Examiner Walford for the indication of allowability of claims 2 and 4-15, as well as the indication of allowability of claim 1 in light of the following remarks as discussed via telephone on February 13, 2009.

Claim 1 is *provisionally* rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 11/475,225.

Applicants note that the present application has an effective U.S. filing date of March 24, 2005 whereas the cited U.S. patent application (11/475,225) has an effective filing date of June 27, 2006. Therefore the present application is clearly the earlier filed application when compared to this application. Thus, pursuant to M.P.E.P. §804 (Part I.B.1) which states:

“If a ‘provisional’ nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer. Or, “If ‘provisional’ ODP rejections in two applications are the only rejections remaining in those applications, the examiner should withdraw the ODP rejection in the earlier filed application thereby permitting that application to issue without need of a terminal disclaimer.”

Applicants request that this rejection be withdrawn in order to permit this application (i.e., the earlier-filed application) to issue as a patent *without a terminal disclaimer*.

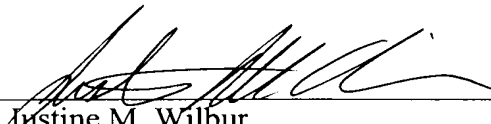
Respectfully submitted,

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